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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,374	01/14/2004	Vito James Carlucci	884.0217USU	3611
7590	11/28/2005		EXAMINER	
Charles N.J. Ruggiero, Esq. Ohlandt, Greeley, Ruggiero & Perle, L.L.P. 10th Floor One Landmark Square Stamford, CT 06901-2682			GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,374

Applicant(s)

CARLUCCI ET AL.

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Preliminary matters

Applicants have amended heater to now recited heating source in claim 1, however dependent claims still recite heater. The Office is treating both as patentably interchangeable, since the specification does not differentiate between a heating source or a heater.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1, 4, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gell, Jr. et al. (US 5,500,237). Gell can be considered to clearly anticipate the claimed invention since each of the claimed elements can be seen or discussed from the face of that reference. Current Office practice does not afford the preamble patentable distinction unless it breaths life and meaning into the body of the claim. Gell is considered to disclose the invention comprising:

a body **10** having a handle portion **450** and a head portion **12**, said head portion having a blower for generating air flow (please see column 8 lines 28-40 wherein the disclosed centrifugal impeller forcing air towards the outer wall of the blower housing is considered to expressly anticipate the claimed blower generated air flow as can be seen in figure 2);

a primary heating source **52** for providing heat to said airflow; and

a secondary heating source for selectively providing radiant energy to said airflow as desired wherein the disclosed "further heating is provided by radiant heat energy conducted through the wall" at column 8 lines 54-56 is considered to expressly anticipate the claimed secondary heating source because it is "in addition" at line 51 of that column, which is broadly and reasonably construed to disclose a primary heat source in addition to a further secondary heating source. In this application the preamble is considered to not limit the claimed invention in anyway since it does not breath life and meaning into the claim. Gell is also considered to disclose the claimed primary convection heater at column 8 line 51 and individual and/or together heater operation at columns 8 and 9, and first/second air ingress/egress central secondary heater second end disposal as shown in figure 2.

Claims 10-11, 15-16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldstein (US 5,513,296). Goldstein can be considered to clearly anticipate the claimed invention since each of the claimed elements can be seen or discussed from the face of that reference. Current Office practice does not afford the preamble patentable distinction unless it breaths life and meaning into the body of the claim. In this application the preamble is considered to not limit the claimed invention in anyway since it does not breath life and meaning into the claim. Goldstein is considered to disclose the invention comprising:

a body **11** having at least two portions, a first portion **13** and a second portion **32**,

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wherein said first portion accommodates a blower for generating an airflow and at least a primary heating source **37-1** and a secondary heating source **37-2** for heating said airflow, and

wherein said second portion accommodates a control interface **31** for allowing an operator to control a heating effect of said primary heating source and/or said secondary heating source as discussed in column 2 and 3 of that reference wherein the pair of heater assemblies is considered to expressly anticipate the claimed primary and secondary heating sources because both can be controlled by an interface as claimed. Goldstein is also considered to disclose the claimed convection heaters at column 1 line 65, first portion blower 31, first/second air ingress/egress central secondary heater second end disposal as shown in figure 2 and discussed at columns 2 and 3, and adjustable blower as discussed at column 3 lines 19-41.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Doljack et al. (US 4,450,496). Current Office practice does not afford the preamble patentable distinction unless it breaths life and meaning into the body of the claim. Doljack is considered to disclose the invention comprising:

a body, disclosed in column 1 line 15 as the invention, having at least a first portion, disclosed in column 1 line 16 as the power circuit, and a second portion, disclosed in column 1 line 16 as the power circuit,

said first portion accommodating at least a primary heating source **23** connected to a power source **17** and a secondary heating source **23a**,

said second portion accommodating a control interface **18** for allowing an operator to control a heating effect of said primary heating source and/or said secondary heating source, wherein said second heating source is a positive temperature coefficient heater with a doped ceramic, and wherein said positive temperature coefficient heater is connected to said power source at column 8 lines 7-60 and at column 9 beginning at line 12 with the doped ceramic feature being taught at column 4 lines 19-56, wherein the disclosed separate thermal resistors coupled in parallel is considered to inherently anticipate the claimed primary and secondary heating sources because both act to provide heating as claimed.

Claim Rejections - 35 USC § 103

Claims 2-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gell in view of Slingo (US 6,378,225). Gell is considered to clearly anticipate the claimed invention, except for the claimed operator control interface and an infrared heater. Slingo, another dryer, is considered to disclose a operator control interface and an infrared heater at column 2 lines 29-47. It would have been obvious to one skilled in the art to combine the teachings of Gell with the operator control interface and an infrared heater, considered to be disclosed in Slingo for the purpose of allowing a more flexible heating temperature and airflow volume to prevent hair damage in hair drying equipment.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gell in view of Carson (US 5,640,781). Gell is considered to clearly anticipate the claimed invention, except for the claimed PTC ceramic heater. Carson, another dryer, is

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considered to disclose a PTC ceramic heater at column 4 lines 12-27. It would have been obvious to one skilled in the art to combine the teachings of Gell with the PTC ceramic heater, considered to be disclosed in Carson for the purpose of allowing a self regulating secondary heater by using a material that sharply increases resistance without a corresponding temperature increase, inherent to PTC ceramic heaters.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gell in view of Polaert (US 5,790,749). Gell is considered to clearly anticipate the claimed invention, except for the claimed self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects. Polaert, another dryer, is considered to disclose a self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects at column 3 line 45 through column 4 line 6. It would have been obvious to one skilled in the art to combine the teachings of Gell with the self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects, considered to be disclosed in Polaert for the purpose of allowing a more flexible heating temperature and airflow volume to prevent hair damage in hair drying equipment.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein in view of Slingo (US 6,378,225). Goldstein is considered to clearly anticipate the claimed invention, except for the claimed infrared heater. Slingo, another hair dryer, is considered to disclose an infrared heater at column 2 lines 29-47. It would have been obvious to one skilled in the art to combine the teachings of Goldstein with the infrared heater, considered to be disclosed in Slingo for the purpose of allowing a more flexible

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heating temperature and airflow volume to prevent hair damage in hair drying equipment.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein in view of Carson (US 5,640,781). Goldstein is considered to clearly anticipate the claimed invention, except for the claimed PTC ceramic heater. Carson, another dryer, is considered to disclose a PTC ceramic heater at column 4 lines 12-27. It would have been obvious to one skilled in the art to combine the teachings of Goldstein with the PTC ceramic heater, considered to be disclosed in Carson for the purpose of allowing a self regulating secondary heater by using a material that sharply increases resistance without a corresponding temperature increase, inherent to PTC ceramic heaters.

Claims 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein in view of Polaert (US 5,790,749). Goldstein is considered to clearly anticipate the claimed invention, except for the claimed self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects. Polaert, another dryer, is considered to disclose a self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects at column 3 line 45 through column 4 line 6. It would have been obvious to one skilled in the art to combine the teachings of Goldstein with the self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects, considered to be disclosed in Polaert for the purpose of allowing a more flexible heating temperature and airflow volume to prevent hair damage in hair drying equipment.

Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein in view of Pollack (US 2002/0006275). Goldstein is considered to clearly anticipate the claimed invention, except for the claimed feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto. Pollack, another dryer, is considered to disclose a feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto in paragraph 27 and paragraph 31. It would have been obvious to one skilled in the art to combine the teachings of Goldstein with the feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto, considered to be disclosed in Pollack for the purpose of allowing a more flexible heating temperature and airflow volume to prevent hair damage in hair drying equipment.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doljack in view of Gell. Doljack is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed handle and head portion. Gell, another dryer shows a handle and head portion on the face of that reference. It would have been obvious to one skilled in the art to combine the teachings of Doljack with the handle and head portion, considered disclosed by Gell, for the purpose of user portability and direction for operation.

Response to Arguments

Applicant's arguments filed October 14, 2005 have been fully considered but are not considered persuasive.

anticipation

Each of the rejections above have been discussed fully addressing each of applicants concerns with respect to the claimed invention in light of the prior art. Although it is argued that at least one reference allegedly shows a single heating element, all of the references show at least two separate heating sources such that heating occurs in a primary and secondary fashion as claimed. Furthermore, the argued two separate air flows is differently construed based on the rejection above and hopefully overcomes the distinction of the claimed invention in light of the prior art. Finally, a third reference shows separate thermal resistors that can be broadly and reasonably construed to anticipate the claimed separate heating sources as claimed. Applicants argue that since each of the independent claims are considered patentable, so should the dependent claims. Since the anticipatory rejections are considered proper, each rejections is maintained.

obviousness

Applicants argue that since each of the independent claims overcome anticipatory rejections, dependent obviousness rejections should be withdrawn. Since the anticipatory rejections are considered proper, each of the obviousness rejections is maintained as set forth below.

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Arguments raised with respect to Doljack and Gell obviousness rejection of the claimed invention are not considered persuasive because the claims are considered unpatentable over Doljack in view of Gell. Separately arguing the subject matter of each reference does not overcome the rejection because it can be considered that one skilled in the art would have been motivated to combine the teachings of Doljack with the secondary teachings of Gell, as discussed in the rejection above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571 272 4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMG
November 22, 2005

A handwritten signature in black ink, appearing to read "Stephen Gamm". The signature is written in a cursive, flowing style.